

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.126/1996

New Delhi, this 1st day of November, 1999

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. S.P. Biswas, Member(A)

Harish Chander  
s/o Shri Hira Dass  
241, Police Colony  
Ashok Vihar, Delhi-110052 .. Applicant  
(By Shri Shyam Babu, Advocate)

versus

1. Principal  
Police Training School  
Jharoda Kalan, New Delhi
2. Senior Addl. Commissioner of Police  
(AP&T), Police Hqrs.  
I.P. Estate, New Delhi .. Respondents  
(By Shri S.K. Gupta, Advocate)

ORDER(oral)

Hon'ble Mr. Justice Ashok Agarwal

A minor penalty of censure imposed upon the applicant on 20.10.94 is impugned in the present OA.

2. Applicant at the relevant time was a Police Sub-Inspector undergoing training at the Police Training Institute, which is a residential institute. On the night intervening 16th and 17th of July, 1994 during a surprise check applicant was found absent. A show-cause notice dated 21.7.94 came to be served on the applicant. By his reply dated 28.7.94, applicant conceded that he was absent at the relevant time but contended that he was required to leave the institute as he had received a telephonic message from his wife that his son was critically ill. By an order passed by the disciplinary authority on 20.10.94, minor penalty of censure was imposed on the applicant. Applicant on 22.11.94 moved an appeal. Appellate authority by an order passed on 5.9.95 confirmed the order of censure and dismissed the appeal. The aforesaid orders are impugned in the present application.

7

3. Shri Shyam Babu, learned counsel appearing for the applicant contended that the impugned orders are harsh on the ground that though the disciplinary authority had offered the applicant opportunity of being heard, the appellate authority did not offer the same opportunity. He further contended that since the applicant had received the message during the night time, he was constrained to leave the institute without obtaining prior permission as no superior officer was available to seek permission. He also pointed out that the disciplinary authority has not supported the order of censure by giving reasons. According to him the aforesaid orders are, therefore, liable to be quashed.

4. We have considered the contentions advanced by Shri Shyam Babu. We are unable to persuade ourselves to accede to the appeal.

5. It is undisputed that the applicant had absented himself without prior permission during the night intervening 16th and 17th July, 1994. His absence was detected at the time of surprise check which was carried out by the Day Officer of the institute. As far as the case of the applicant that he received a message from his wife that his son was critically ill and therefore he was constrained to leave without obtaining prior permission is concerned, no material has been placed by the applicant in support of his claim. Apart from his oral assertion, no evidence whatsoever is placed on record. Similarly in respect of his case that no superior officer was available at that time for seeking permission to leave the institute, no material is placed

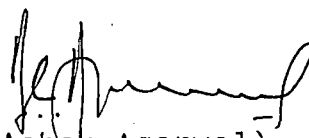
He. J.

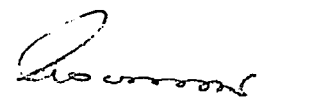
8

on record. As far as the disciplinary authority is concerned, it is conceded that the applicant was given a hearing. Since it is undisputed that the applicant was found absent, the disciplinary authority has proceeded to pass the impugned order of censure on undisputed facts. As far as the appellate authority is concerned, it is observed in the orders that an opportunity of hearing was given to the applicant but the same was not availed of by him. We have no reason to doubt the said observation found in the order of the appellate authority. The appellate authority has observed that even if his son was actually ill, the same did not justify the applicant to leave the institute without obtaining prior permission. In our view no fault can be found either with the orders passed by the disciplinary authority or the appellate authority.

6. In the aforesaid facts and circumstances, we find that the impugned order of censure cannot be successfully assailed. In the circumstances, we find that no intervention is called for in the present OA. The OA is accordingly dismissed.

7. In the circumstances, there will be no order as to costs.

  
(Ashok Agarwal)  
Chairman

  
(S.P. Biswas)  
Member(A)